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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,838	11/24/2003	Mickael Gros-Jean	02-GR 1-323	3616
23334 7590 03/24/2008 FLETT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487				
			EXAMINER CHEN, BRET P	
			ART UNIT 1792	PAPER NUMBER
			NOTIFICATION DATE 03/24/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoboca@focusnip.com

### Office Action Summary

**Application No.**

10/720,838

**Applicant(s)**

GROS-JEAN ET AL.

**Examiner**

BRET CHEN

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 40-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-15, 40-43 are pending in this application. Amended claims 6, 8, 13 and newly added claims 41-43.

The amendment dated 12/20/07 has been entered and carefully considered. The examiner appreciates the amendments to the claims. In view of said amendment, the 112 rejection has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-5, 8, 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Chiu** for the reasons listed in the previous office action.

In newly added claim 42, the applicant requires silicon. This is taught as indicated previously.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 6-7, 9-15, 40-41, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu** for the reasons listed in the previous office action.

In newly added claim 41, the applicant requires nitrogen as a carrier gas. This issue has been addressed in the previous office action.

In newly added claim 43, the applicant requires a specific thickness. This issue has been addressed in the previous office action.

### ***Response to Arguments***

Applicant's arguments filed 12/20/07 have been fully considered but they are not persuasive.

Applicant first argues that the examiner's calculations are trivial (p.8 last two lines) and wrong (p.9 line 1-2, 15). Specifically, applicant argues that the volumes are not equal (p.9 last full paragraph), the pressures are not partial pressures (paragraph bridging pp.9-10), and that one cannot assume the molar mass of TBTDET is greater than Ar (p.10 first full paragraph).

The examiner disagrees. The examiner has conceded that Chiu does not explicitly teach the claimed partial pressure. However, using the actual parameters recited in Chiu, calculations were performed to show that the claimed partial pressure is actually taught in Chiu. Applicant argues that the volumes are not equal. The examiner questions how one skilled in the art would not assume that the volumes are equal. Applicant next argues that the pressures are not partial pressures. The examiner questions if they are not, what are they? Applicant next argues that one cannot assume the molar mass of TBTDET is greater than Ar. It is the examiner's position that it is. If the applicant disagrees, factual evidence supporting the position should be provided.

Applicant next argues that the reference does not teach the combination of temperature and partial pressure and relies on the previous arguments above (p.12 second full paragraph).

The examiner disagrees. The reference clearly teaches a processing temperature of 573-873K. This clearly overlaps the claimed temperature range of 200-400°C. Overlapping ranges are *prima facie* evidence of obviousness. It would have been obvious to one having ordinary skill in the art to have selected the portion of Chiu's temperature range that corresponds to the claimed range.

Applicant's arguments have been considered but are not deemed persuasive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRET CHEN whose telephone number is (571)272-1417. The examiner can normally be reached on 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. Chen/

Primary Examiner, Art Unit 1792

3/16/08